

must be the project manager responsible for performance of the contract.

(5) The joint venture must perform any applicable percentage of work required of SDB offerors, and the SDB joint venturer(s) must perform a significant portion of the contract.

(g) *Ownership restrictions for non-disadvantaged individuals.* The ownership restrictions set forth in §124.105 (g) and (h) for non-disadvantaged individuals and concerns do not apply for purposes of determining SDB eligibility.

[63 FR 35772, June 30, 1998, as amended at 69 FR 29208, May 21, 2004]

§ 124.1003 What is a Private Certifier?

A Private Certifier is an organization or business concern approved by SBA to determine whether firms are owned and controlled by one or more individuals claiming disadvantaged status. SBA may elect to arrange for one or more Private Certifiers to perform certain functions in the SDB Certification process. When that election is made, the provisions of §§124.1004 through 124.1007 will apply. SBA will establish more detailed standards regarding qualifications, monitoring, procedures and use, if any, of Private Certifiers in specific contracts or agreements between SBA and the Private Certifiers.

§ 124.1004 How does an organization or business concern become a Private Certifier?

(a) SBA may execute contracts or agreements with organizations or business concerns seeking to become Private Certifiers. Any such contract or agreement will include provisions for the oversight, monitoring, and evaluation of all certification activities by SBA.

(b) The organization or business concern must demonstrate a knowledge of SBA's regulations regarding ownership and control, as well as business organizations and the legal principles affecting their ownership and control generally, including stock issuances, voting rights, convertibility of debt to equity, options, and powers and responsibilities of officers and directors, general and limited partners, and limited liability members.

(c) The organization or concern must also, along with its principals, dem-

onstrate good character. Good character does not exist for these purposes if the organization or concern or any of its principals:

(1) Is debarred or suspended under any Federal procurement or non-procurement debarment and suspension regulations; or

(2) Has been indicted or convicted for any criminal offense or suffered a civil judgment indicating a lack of business integrity.

(d) As a condition of approval, SBA may require that appropriate officers and/or key employees of the concern attend a training session on SBA's rules and requirements.

(e) An organization or concern seeking to become a Private Certifier must agree to provide access to SBA of its books and records when requested, including records pertaining to its certification activities. Once SBA approves the organization or concern to be a Private Certifier, SBA may review this information, as well as the decisions of the Private Certifier, in determining whether it will renew or extend the term of the Private Certifier, or terminate the Private Certifier for cause.

(f) SBA will include in any contract or agreement document authorizing an entity to act as a Private Certifier appropriate conditions to prohibit conflicts of interests between the Private Certifier and the firms for which it processes SDB applications and to protect the integrity of the decision-making process.

§ 124.1005 Can a fee be charged to a firm to process the firm's application for SDB certification?

(a) With SBA's approval, a Private Certifier may charge a reasonable fee to a firm in order to screen the firm's application for completeness and to process a determination of ownership and control. The fee must be for actual services rendered and must not be related to whether or not the business concern is found to be owned and controlled by one or more individuals or entities claiming disadvantaged status.

(b) Where SBA makes the determination of ownership and control, SBA may collect a fee comparable to that which would be charged by a Private